

Rule 101. Motion practice before court commissioners.

(a) Written motion required. An application to a court commissioner for an order shall be by motion which, unless made during a hearing, shall be made in accordance with this rule. A motion shall be in writing and state succinctly and with particularity the relief sought and the grounds for the relief sought.

(b) Time to file and serve. The moving party shall file the motion and attachments with the clerk of the court and obtain a hearing date and time. The moving party shall serve the responding party with the motion and attachments and notice of the hearing at least 14 calendar days before the hearing. The moving party shall serve the other party directly if the other party is unrepresented or if service is more than 90 days after the date of entry of the most recent appealable order.

(c) Response; reply. The responding party shall file and serve the moving party with a response and attachments at least 5 business days before the hearing. The moving party may file and serve the responding party with a reply and attachments at least 3 business days before the hearing. The reply is limited to responding to matters raised in the response.

(d) Attachments; objection to failure to attach.

(d)(1) As used in this rule “attachments” includes all records, forms, information and affidavits necessary to support the party’s position. A party may file and serve with the motion a memorandum supporting the motion. A party may file and serve with the response a memorandum opposing the motion. Attachments for motions and responses regarding alimony shall include income verification and financial declaration. Attachments for motions and responses regarding child support and child custody shall include income verification, financial declaration and child support worksheet. A financial declaration shall be verified.

(d)(2) If attachments necessary to support the moving party’s position are not served with the motion, the responding party may file and serve an objection to the defect with the response. If attachments necessary to support the responding party’s position are not served with the response, the moving party may file and serve an objection to the defect with the reply. The defect shall be cured within 2 business days after notice of the defect or at least 2 business days before the hearing, whichever is earlier.

(e) Courtesy copy. Parties shall deliver to the court commissioner a courtesy copy of all papers filed with the clerk of the court within the time required for filing with the clerk. The

32 courtesy copy shall state the name of the court commissioner and the date and time of the
33 hearing.

34 (f) Late filings; sanctions. If a party files or serves papers beyond the time required in
35 subsections (b) or (c), the court commissioner may hold or continue the hearing, reject the
36 papers, impose costs and attorney fees caused by the failure and by the continuance, and impose
37 other sanctions as appropriate.

38 (g) Counter motion. Opposing a motion is not sufficient to grant relief to the responding
39 party. An application for an order may be raised by counter motion. This rule applies to counter
40 motions except that a counter motion shall be filed and served with the response. The response to
41 the counter motion shall be filed and served with the reply. The reply to the response to the
42 counter motion shall be filed and served at least 2 business days before the hearing.

43 (h) Limit on hearing. The court commissioner shall not hold a hearing on a motion before the
44 deadline for an appearance by the respondent under Rule 12.

45 (i) Limit on order to show cause. The court shall issue an order to show cause only upon
46 motion supported by affidavit or other evidence sufficient to show probable cause to believe a
47 party has violated a court order. The court commissioner shall proceed in accordance with Utah
48 Code Title 78, Chapter 32, Contempt.

49 (j) Motions to judge. The following motions shall be to the judge to whom the case is
50 assigned: motion for alternative service; motion to waive 90-day waiting period; motion to waive
51 divorce education class; motion for entry of default judgment; motion for leave to withdraw after
52 a case has been certified as ready for trial; and motions in limine. A court may provide that other
53 motions be to the judge.

54